



**IN THE MATTER OF** )  
 )  
**Sherry L. Weaver,** )  
**Complainant** )  
 )  
**and** )  
 )  
 )  
**Mt. Morris Family Restaurant and** )  
**Shefki Mermedi,** )  
**Respondents** )

**CHARGE NO.:** 1998 CF 1906  
**EEOC NO.:** 21B 981184  
**ALS NO.:** 10713

This matter came before me on July 31, 2000 for a public hearing on damages after a default order was entered against both respondents on May 2, 2000. After the conclusion of the public hearing, Complainant filed her post-hearing Argument and Brief on August 30, 2000, and her counsel filed a Petition for Attorney's Fees on September 5, 2000. Respondents did not participate in the public hearing on damages and did not file any post-hearing argument. The matter is now ready for decision

1. Complainant began her employment with Respondent Mt. Morris Family Restaurant (“Restaurant”) on June 24, 1997. She was the full-time daytime waitress at the Restaurant.

3. In August, 1997, Complainant was subjected to egregious sexual harassment initiated by Respondent Mermedi in the following forms:

a. He repeatedly used sexually provocative language in her presence and directed toward her:

- b. He repeatedly touched her in a sexually provocative manner on both her chest and buttocks;

4. Respondent did not stop engaging in sexual harassment even after Complainant advised him that his conduct was unwelcome. The hostile work environment created did not improve and in retaliation for her resistance to sexual harassment, Complainant was discharged on August 27, 1997.

5. At the time of her discharge, Complainant was earning \$1,404.00 per month

6. Complainant's monthly rate of compensation during the time from her discharge to the date of this recommendation (43 months) was as follows:

- a. Three months at \$535.60 per month;
  - b. Three months at \$1,040.00 per month.
  - c. Thirty-seven months at \$1,126.67 per month.

7. Complainant was subjected to severe sexual harassment during her employment at the Restaurant, causing her emotional distress that affected her ability to function in other areas of her life, especially her marriage, and with regard to her physical health.

### **Conclusions of Law**

1. Complainant is an "aggrieved party" and Respondents are an "employer" as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B) respectively.

2. The Commission has jurisdiction over the parties and the subject matter of this action.

3. Complainant was subjected to sexual harassment as prohibited in Section 2-102(D) of the Illinois Human Rights Act.

4. Complainant suffered emotional distress of such magnitude that she is entitled to

compensation.

5. As the prevailing party in this action, Complainant is entitled to the award of attorney's fees.

### **Discussion**

At the public hearing on damages, Complainant described the financial and emotional effect of the sexual harassment she suffered due to the actions of Respondents. She was discharged on August 27, 1997 in retaliation for her opposition to the sexual harassment perpetrated against her by Respondent Shefki Mermedi.

She is entitled to an award from the Commission for lost salary due to the lower wages she was forced to accept after her discharge and for the emotional distress she suffered both during her employment with Respondents and in the course of her life after leaving that employment. Accordingly, I find that Complainant left her employment with Respondents 43 months ago. The record reveals that her income with Respondents was \$1,404.00 per month at the time of her discharge. She earned \$535.60 per month for the first three months after her discharge; \$1,040 .00 for the next three months after her discharge; and, \$1,126.67 per month for the remaining months after her discharge. Therefore, her net back pay is \$13,458.41.

The misconduct described by Complainant, and the consequences of that conduct to her, indicates that she is entitled to an award for the emotional distress she suffered during and after her employment with Respondents as a direct consequence of the hostile work environment she experienced. While she did not receive therapy for emotional distress, she did obtain treatment for hair loss. Among the other manifestations of the emotional distress that she described are: marital strife, including loss of intimacy; weight gain of 60 pounds; lowered self-esteem; crying bouts; sleeplessness; and, fear of further retaliation from Respondent Mermedi. For the conduct

of Respondent Mermedi and the reasonable inference of ensuing emotional distress, including its continuing effect on Complainant, I recommend the award of \$25,000 to Complainant.

After preparing the post-hearing memorandum, Complainant's counsel submitted a Petition for Attorney's Fees, with supporting statements. The petition notes that his billing rate is \$125 per hour. While he did not submit documentation of his experience that would enable me to evaluate the reasonableness of the fee in accord with the standard defined in Clark and Champaign National Bank, 4 Ill. H.R.C. Rep. 193 (1982), I find that this rate is reasonable in light of community standards and in accord with the difficulty of this defaulted matter. He is requesting compensation for 42.5 hours of work and expenses of \$34.41, for a total of \$5,346.91. Upon review of the itemized billing statement submitted by counsel, the following are not allowed: All entries designated as "no description" of the activity involved (5/15/200, 6/7/2000, 6/13/2000, 7/18/2000 and 8/9/2000), a total of 1.91 hours; and, of the 18.5 hours billed for 7/31/2000, the date of the public hearing, 10.0 are disallowed because they are for travel or other activities not directly related to the public hearing. Thus, counsel is to be compensated for 30.59 hours of work (\$3,823.75) and expenses of \$34.41, a total of \$3,858.16.

The full amount that I recommend be awarded to Complainant is \$38,458.41 and \$3,858.16 for attorney's fees.

### **Recommendation**

It is recommended that Complainant be awarded \$38,458.41 in satisfaction of her claim against Respondent and \$3,858.16 as her reasonable attorney's fees, a total of \$42,316.57.

HUMAN RIGHTS COMMISSION

ENTERED:

BY: \_\_\_\_\_  
DAVID J. BRENT  
ADMINISTRATIVE LAW JUDGE

March 8, 2001

ADMINISTRATIVE LAW SECTION